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Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PALANTIR TECHNOLOGIES INC.,

Plaintiff,

v.

MARC L. ABRAMOWITZ, in his individual
capacity and as trustee of the MARC
ABRAMOWITZ CHARITABLE TRUST NO.
2, KT4 PARTNERS LLC, and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: 5:19-cv-6879

**DEFENDANTS' NOTICE OF REMOVAL OF
CIVIL ACTION UNDER 28 U.S.C. § 1441(A)
(FEDERAL QUESTION)**

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendants Marc L. Abramowitz, KT4 Partners LLC, and the Marc Abramowitz Charitable Trust No. 2 (collectively, “Defendants”), by and through their attorneys, hereby remove to this Court, pursuant to 28 U.S.C. §§ 1331, 1441(a), and 1446, the state court action described below. In support of this removal, Defendants state as follows:

FEDERAL QUESTION JURISDICTION

1. Removal of the state court action described below is proper under 28 U.S.C. § 1441(a) because the district courts of the United States have original jurisdiction over the action. As set forth below, this Court has original jurisdiction in this action pursuant to 28 U.S.C. § 1331 because the Third Amended Complaint (“TAC”) asserts a cause of action arising under federal law—specifically, the federal civil RICO statute, 18 U.S.C. § 1962. TAC ¶¶ 49-53 (filed October 18, 2019, attached hereto in Exhibit 2). Accordingly, Defendants hereby remove this action pursuant to 28 U.S.C. § 1441(a). *See, e.g., Churchill Village, L.L.C. v. General Electric*, 361 F.3d 566, 573-575 (9th Cir. 2004).

THE STATE COURT ACTION

2. On September 1, 2016, Palantir Technologies Inc. (“Palantir”) commenced this action in the Superior Court of the State of California in and for the County of Santa Clara (“Superior Court”), entitled *Palantir Technologies Inc. v. Marc L. Abramowitz, et al.*, as case number 16CV299476. Palantir filed a First Amended Complaint on September 23, 2016. On March 20, 2017, Palantir sought leave to file a Second Amended Complaint, and leave was granted on May 5, 2017.

3. On June 26, 2019, Plaintiff sought leave to file a TAC. Plaintiff’s proposed amendments to the Second Amended Complaint included adding a new federal cause of action under the federal Racketeer Influenced and Corrupt Organizations (“RICO”) Act against all Defendants. The Superior Court granted Plaintiff’s motion for leave to amend on October 17, 2019, and Palantir filed the TAC on October 18, 2019. *See* Ex. 2. The TAC asserts four causes of action: (1) a federal civil RICO claim under 18 U.S.C. § 1962; (2) breach of contract; (3) breach of the covenant of good faith and fair dealing; and (4) trade secret misappropriation under Cal. Civ. Code § 3426 et seq.

REMOVAL IS TIMELY

4. The California Superior Court granted Plaintiff's motion for leave to amend on October 17, 2019. This Notice of Removal is timely, having been filed within thirty (30) days after that date. *See* 28 U.S.C. § 1446(b).

REMOVAL TO THE PROPER COURT / INTRADISTRICT ASSIGNMENT

5. The U.S. District Court for the Northern District of California, San Jose Division, is the "district and division within which [the state court action] is pending," *i.e.*, Santa Clara County, California. Thus, venue in this Court is proper under 28 U.S.C. § 1446(a). Further, pursuant to Civil L.R. 3-2(c), venue is proper in this Court because the action allegedly arises in Santa Clara County.

ALL DEFENDANTS HAVE CONSENTED TO REMOVAL

6. The undersigned counsel represent all named Defendants in this case, and all Defendants consent to removal. The consent of the remaining unnamed Doe defendants is not required. *See Fristoe v. Reynolds Metals Co.*, 615 F.2d 1209, 1213 (9th Cir. 1980) (unnamed defendants not required to join in removal petition).

PLEADINGS AND PROCESS

7. In compliance with 28 U.S.C. § 1446(a), a "copy of all process, pleadings, and orders served upon" Defendants in *Palantir Technologies Inc. v. Marc L. Abramowitz, et al.*, Case No. 16CV299476, are attached collectively hereto as Exhibit 2. A copy of the publicly available state court register of actions/docket for Case No. 16CV299476 is attached hereto as Exhibit 1.

NOTICE TO PLAINTIFF AND STATE COURT

8. Pursuant to 28 U.S.C. § 1446(d), Defendants will promptly serve upon Plaintiff's counsel of record and file with the Santa Clara County Superior Court a true and correct copy of this Notice.

By removing this action to this Court, Defendants do not waive but instead expressly preserve any and all arguments and defenses available to them.

WHEREFORE, Defendants respectfully remove this action from the Superior Court of the State of California, in and for the County of Santa Clara, to this Court pursuant to 28 U.S.C. § 1441(a).

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1 DATED: October 22, 2019

Respectfully submitted,

2 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

3 By: /s/ Jack P. DiCanio

4 Jack P. DiCanio

Attorneys for Defendants